

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)	
)	
LPTV, TV Translator, and FM Broadcast Stations)	MB Docket No. 18-214
Reimbursement)	
)	GN Docket No. 12-268
Expanding the Economic and Innovation)	
Opportunities of Spectrum through Incentive)	
Auctions)	

To: The Commission

REPLY COMMENTS OF THE NATIONAL TRANSLATOR ASSOCIATION

1. Fast Track Proposal

In our comments, the National Translator Association recommended that the Commission adopt a simplified “fast track” approach, as one option for stations seeking reimbursement of their costs in reconfiguring facilities during the spectrum re-pack. The record to date does not include comments responsive to this proposal, but we are hopeful that it will find broad support in this reply stage. A simplified approach to filing would be purely optional, but where selected it would save time and expense both for the applicant and for the Commission staff.

On October 22 the Incentive Auction Task Force and the Media Bureau release a guidance on expected costs that would be eligible for reimbursement, together with a schedule of detailed estimates, DA-18-1072.

Comments on these are not due until November 21, with reply comments on December 6, 2018. The existence of these schedules, however they may be refined in the comment process, has implications for NTA's “fast track” proposal.

In our comments at p. 7, fn. 3, we noted that fast track reimbursements might be categorically restricted to certain general areas, such as Transmitters, Amplifiers, Modulators and Transcoders, Combiners, Mask Filters, Antennas, Input Channel Facilities, Tower Modifications, Channel Receivers, and Receive Channel Filters. The new schedules encompass this concern, and deal with it far more comprehensively. We do submit that a fast track applicant, agreeing to an express dollar cap, inherently will require a less exacting audit of its documented costs.

We proposed a cap of \$31,000 for any single station applicant seeking reimbursement under the “fast track.” The new schedules are more complete and in some ways more open-ended than the expenses that NTA had

analyzed in preparing comments. We commend this approach because we strongly believe that affected LPTV Stations and Translators, to the extent possible, should be made whole through the overall repacking process, for all “reasonable” expense, as the Statute provides. However, the new schedules suggest that our dollar limit may have been conservative. If the Commission does go forward with a “fast track” approach it may decide on a different dollar limit than the one we proposed. The comment stage on the schedules should be valuable in making such an appraisal. And of course, NTA reserves the opportunity to comment on the schedules in the time permitted.

Once the Commission has received public comments on the schedules, and refined them as appropriate, we believe that “fast track” applicants whose expenses are in general conformity with them should be able to apply, one time only, for reimbursement, with documentation of their expenses. Applicants under “fast track” should not be required to go through a two stage process of written estimates and then reimbursement applications. Especially in remote, rural communities, licensees are likely to be hard pressed to make even the one filing. Where possible, paperwork burdens on them should be minimized.

The fast track as we envision it will involve a licensee agreeing to a compensation package not to exceed \$31,000 (or other generally adopted cap), per station. Once that notification is given, the licensee would be free to expend more than the cap, but could only receive reimbursement up to the cap. The cap would not entitle the applicant to receive a fixed amount, because actual expenses would still need to be documented, and in many cases would fall below the cap. NTA members are advising us that new costs attendant on channel changes, aside from new or retrofitted transmitters, often center on a new combiner or a new wide-band antenna to be shared by multiple stations. In those cases, an applicant for funds should be able to share the cost of a common facility across multiple stations and stay under the cap, where an item is clearly disclosed, the expenditure documented, and the relationship to each station fully explained. The same would be true with the expense for a new tower used by multiple stations.

In our comments, we noted that the requirement for submission of cost estimates was inspired, at least in part, out of a concern that the available funds under the Statute might be insufficient, forcing the Agency to prioritize expenditures in some manner. But as we noted, some 2,499 window and pre-window filers are eligible for reimbursement from the \$150,000,000 set aside for Translators and LPTV during the 2018 fiscal year. We suspect that more than half of Translator operators would use the “fast track” approach, and 1,250 applicants at under \$31,000 would total less than \$38,750,000. If the “fast track” cap were upped to \$45,000, for example, the budget impact of that segment will still be less than \$56,250,000.

2. Other Issues

“Reasonable cost” is a general concept, and replication of existing service is more a slogan than a principal basis for policy decision. With the turmoil and uncertainty of the repacking, a number of firms that supplied existing equipment have gone out of business. And with rapid technological change, equipment is steadily improving and adding new features. Often this results in new benefit to the public. The schedules will need to be applied with a dose of common sense, and should not be used to demand the replacement of a buggy and buggy whip with the identical buggy and buggy whip. We applaud the comments (at p. 5) of the LPTV Spectrum Rights Coalition, LLC:

We understand and acknowledge the role the FCC needs to play as the custodian of the funds from Congress. But the FCC needs to understand that a primary impact to LPTV from the lengthy now 6+ year long process of the Incentive Auction, is that many LPTV simply did not upgrade for many years due to the vast uncertainty of the displacement process, and until recently, the lack of Federal relocation funding assistance. . . [Just because you can operate with older equipment, you may need to upgrade for all kind of reasons, such as power consumption, reliability, EAS compatibilities and upgrades, and because of new transmission locations. . . . [Any new transmitter will probably already have the software/firmware upgrade capabilities to ATSC 3.0, and this feature should not disqualify any purchase from eligibility. Although we agree that upgrades for ATSC 3.0 as the sole reason should not be eligible for funding.

We are hopeful that parties commenting on the schedules in the future will keep this sensible balancing in mind.

NTA agrees with the comments of Mojave County Board of Supervisors, that STL links and other related means of interconnecting a source with a translator should be eligible for reimbursement. In cases where it becomes necessary for a licensee to move some distance to a new tower, this could be one of the most significant direct costs of the repacking.

3. Microsoft Proposal to Encourage Full Service Masks.

In its comments, Microsoft Corp. urges that the Commission be willing to reimburse the cost of filters, whether “simple,” “stringent,” or “full service.” NTA can agree that it should be left to the station licensee to determine what level of filter to utilize. But there is no justification for a station adopting a particular filter beyond its own needs, and receiving government reimbursement. If Microsoft wants this to be done, it should establish its own reimbursement fund, as T-Mobile has done, and fund mask filter upgrades directly.

The Microsoft position is disturbing in other respects. By assuming active “white space” usage in the new, compressed bands, it is pre-judging other rule makings, and urges matters that are beyond the scope of this notice and this proceeding.

NTA believes that factually the Microsoft position is seriously flawed. Until the repack is finished, we will

not know for certain how many TV translator output channels, and the necessary, paired inputs channels will be involved. A registry does not solve this problem, because the environment is fluid and can change drastically. The only certainty is that the available band has been seriously reduced. NTA members in many rural areas have found the spectrum to be oversaturated already, and have had difficulty in securing re-pack channels, even in some surprisingly remote rural areas.

The Microsoft comments state that the upgrade to a full service mask is a very minor expense. The Commission's new schedules prove otherwise, see II (A) (1) Minor Rechanneling Issues. There the range for "simple" filters is \$435 to \$2,550, and for "full service" masks from \$1,400, to \$12,800. NTA suspects that the Microsoft position is not being made in good faith, but as a prelude to the argument that, since the licensees will not voluntarily adopt the full service masks, they should be required to do so.

T Mobile and other companies desiring to implement high speed broadband have participated in the Commission's auctions and purchased blocks of spectrum suitable to their needs. Microsoft's approach has been to demand free access to TV bands that are already in heavy use. Once this becomes commonplace, Microsoft assumes that it will be able to secure modifications of the rules to push out the incumbents and favor itself or other new entrants. A glance at the companion docket here, GN Docket No. 12-268, shows *ex parte* filings one after the other, as Microsoft has bombarded Commissioners and staff with these proposals. The assumption is that a full-on lobbying assault is a lot cheaper than the purchase of spectrum at auction. NTA hopes that this assumption is proved wrong.

To the extent that "white space" actually will exist after the repacking, it will do so because the Commission for many years has frozen applications for new and major modification LPTV's and TV Translators. Before unlicensed operators are welcomed into this spectrum, the Commission should open an unconditional filing window to address the pent up demand it has created for new free over the air TV broadcast service.

4. Conclusion

NTA's recommended fast track should enable the Commission to process a high volume of application, quickly and efficiently, without wasted motion or misdirection. Translator licensees in particular are small entities, generally operated as non-profit or supported with state and local taxes. Any saving in the application process is likely to improve participation, and in that way to serve the public interest.

Respectfully submitted,

NATIONAL TRANSLATOR ASSOCIATION



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